



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,465	02/27/2002	Kano Asai	M1909.0004/P004	4762

32172 7590 04/18/2006

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
1177 AVENUE OF THE AMERICAS (6TH AVENUE)
41 ST FL.
NEW YORK, NY 10036-2714

EXAMINER

JEAN GILLES, JUDE

ART UNIT

PAPER NUMBER

2143

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/083,465

Applicant(s)

ASAI ET AL

Examiner

Jude J. Jean-Gilles

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>01/11/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Action is in regards to the Reply received on 01/20/2006.

Response to Amendment

1. This action is responsive to the application filed on 01/20/2006. Claimed priority is granted from Foreign Application 056872/2001, Filing Date 10/17/2001. No claim has been amended. There are no newly added claims. Claims 1-8 are pending. Claims 1-8 represent a method and apparatus for a "System and Method for providing dynamic service using front-end".

Response to Arguments

2. Applicant's arguments with respect to claims 1-8 have been carefully considered, but are not deemed fully persuasive. Applicant's arguments are deemed moot in view of the same ground of rejection reiterated from the First Office Action as explained here below.

The dependent claims stand rejected as articulated in the First Office Action and all objections not addressed in Applicant's response are herein reiterated.

Information Disclosure Statement

3. The references listed on the Information Disclosure Statement submitted on 02/27/2002 have been considered by the examiner (see attached PTO-1449A).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Chilton (Chilton), Patent No. 6,732,117 B1 in view Kraft et al (Kraft) U.S. patent No. 6,832,239 B1.

Regarding **claim 1**, Chilton teaches the invention substantially as claimed.

Chilton discloses a service providing system using front-ends (*fig. 3, items 114; fig. 4, items 60, and 114*) comprising:

a server for processing service tasks in response to service request from a client, and delivering service to the client (*fig. 4, items 60, 62-64; column 9, lines 35-67; fig. 3*);

a means for measuring service response time from when the client requests the server for service to when the server delivers the service to the client (*column 2, lines 60-67; column 3, lines 1-36*);

a means for judging the service response time (*column 2, lines 60-67; column 3, lines 1-36*);

a means for creating a front-end to process the service tasks of the server and perform the service delivery in whole or in part based on the service response time (*column 8, lines 1-57; column 9, lines 35-67*);

a means for having the front-end process the service tasks and performs the service delivery in whole or in part as proxy for the server(*column 8, lines 1-57; column 9, lines 35-67*). However, Chilton does not specifically teach the step of judging whether or not the service response time is equal to or more than a setting value ; means for creating a front-end to processs the serice tasks of the server and perform the service delivery in whole or in part when the service response time is equal to or more that the setting value or in part as proxy for the server.

In the same field of endeavor, Kraft teaches a method "...) In process block 320, the request response manager 204C informs the client user through the client applet 206 of the number of other requesting clients already awaiting service, and the estimated times until the download can be started and until it can be completed. The client applet 206 upon receiving the information may generate a display of the information in the main window or a separate window of the client application 208 e.g., web browser... The applet 206 is programmed to periodically send a message to the status response manager 204E requesting updated status information. The status response manager 204E calls the schedule manager 204B to calculate new values for the number of other clients ahead of the requesting client applet, the estimated time until the download will begin, and the estimated time to complete the requested download. This information will then be passed back to the client applet 206 by the status response manager 204E..." [see Kraft, *column 7, lines 16-24; lines 40-49; it is*

Art Unit: 2143

important to note that the applet application creates the front end interface and does the estimation based on the message status response].

Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Kraft's teachings of a method and apparatus to create a front end to process service tasks, with the teachings of Chilton, for the purpose of "*providing a system and a method with less network traffic and a response time that is superior to the configuration that requires the entire database from the data storage system and searching database.*" as stated by Chilton in lines 31-36 of column 3. Kraft also provides motivation to combine by stating in lines 61-62 of column 2 that "...a system is needed for avoiding overloading of communications resources...". By this rationale, **claim 1 is rejected.**

Regarding **claim 2**, the combination Chilton-Kraft teaches the service providing system using front-ends claimed in claim 1, further comprising a means for bringing the front-end to rest when the response time recovers to less than the setting value after the front-end has processed the service tasks and performed the service delivery in whole or in part as proxy for the server [see Kraft, *column 7, lines 25-40*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 2. By this rationale **claim 2 is rejected.**

Regarding **claim 3**, the combination Chilton-Kraft teaches the service providing system using front-ends claimed in claim 1, further comprising a means for charging a service provider according to the volume of traffic between the client and front-end, and/or the amount of computer resources consumed by the front-end. The Examiner takes Official notice that charging a Service Provider based on amount of resources consumed by the front-end is well known in the art of computer networking. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 3. By this rationale **claim 3** is rejected.

Regarding **claim 4**, the combination Chilton-Kraft teaches the service providing system using front-ends claimed in claim 1, wherein the front-end is created on a communication device [see Kraft, *column 7, lines 16-24; lines 40-49*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 4. By this rationale **claim 4** is rejected.

Regarding **claim 5**, the combination Chilton-Kraft teaches a service providing method using front-ends [see Chilton, *fig. 4, items 60, and 114*] comprising the steps of:
measuring service response time from when a client requests a server for service to when the server delivers the service to the client [see Chilton, (*fig. 4, items 60, 62-64; column 9, lines 35-67*);

judging whether or not the service response time is equal to or more than a setting value [see Kraft, *column 7, lines 16-24; lines 40-49*]

creating a front-end to process the service tasks of the server and perform the service delivery in whole or in part when the service response time is equal to or more

Art Unit: 2143

than the setting value [see Chilton, *column 8, lines 1-57; column 9, lines 35-67; see Kraft, column 7, lines 16-24; lines 40-49*] and

having the front-end process the service tasks and perform the service delivery in whole or in part as proxy for the server [see Kraft, *column 7, lines 16-24; lines 40-49*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 5. By this rationale **claim 5** is rejected.

Regarding **claim 6**, the combination Chilton-Kraft teaches the service providing method using front-ends claimed in claim 5, further comprising the step of bringing the front-end to rest when the response time recovers to less than the setting value after the front-end has processed the service tasks and performed the service delivery in whole or in part as proxy for the server [see Kraft, *column 7, lines 16-24; lines 25-49; fig. 4, item 404*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 6. By this rationale **claim 6** is rejected.

Regarding **claim 7**, the combination Chilton-Kraft teaches the service providing method using front-ends claimed in claim 5, further comprising the step of charging a service provider according to the volume of traffic between the client and front-end, and/or the amount of computer resources consumed by the front-end. The Examiner takes Official notice that charging a Service Provider based on amount of resources consumed by the front-end is well known in the art of computer networking. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 7. By this rationale **claim 7** is rejected.

Regarding **claim 8**, the combination Chilton-Kraft teaches the service providing method using front-ends claimed in claim 5, wherein the front-end is created on a communication device [*see Kraft, column 7, lines 16-24; lines 40-49*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 8. By this rationale **claim 8** is rejected.

Response to Arguments

6. Applicant's Request for Reconsideration filed on 01/20/2006, has been carefully considered but is deemed persuasive. The Examiner has reviewed the main point of contentions from the applicants, that is "Claims 1, and 5 recite a service providing system using front-ends, means for "judging whether or not the service response time is equal to more than a setting value; (and) a means for creating a front end to process the service tasks of the server and perform the service delivery in whole or in part when the service response time is equal to or more than the setting value." These features are not present in the cited references. Applicants' contend that the prior art of record does not disclose these limitations of the claimed invention. However the combination Chilton-Kraft disclose all the limitations of the claimed invention with a reasonable expectation of success as explained above (see rejection of claims 1 and 5).

Conclusion

7. Accordingly, **THIS ACTION IS MADE NON-FINAL**. Any inquiry concerning this communication or earlier communications from examiner should be directed to Jude Jean-Gilles whose telephone number is (571) 272-3914. The examiner can normally be reached on Monday-Thursday and every other Friday from 8:00 AM to 5:30 PM.

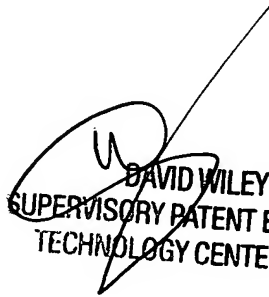
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley, can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-9000.

Jude Jean-Gilles
Patent Examiner
Art Unit 2143

JJG 

April 11, 2006


DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100